



No.11

Handbook Notice

May 2014

Financial Conduct Authority



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Handbook Notice 011

This Handbook Notice introduces the Handbook and other material made by the Financial Conduct Authority (FCA) Board under its legislative powers on 27 March and 1 May 2014. It also contains information about other publications relating to the Handbook and, if appropriate, lists minor corrections made to previous instruments made by the Board.

Contact names for the individual modules are listed in the relevant Consultation Papers and Policy Statements referred to in this Notice.

General comments and queries on the Handbook can be addressed to:

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However, queries on specific requirements in the Handbook should be addressed first to your normal supervisory contact in the FCA. For most firms this will be the FCA's Firm Contact Centre:

Tel: 0845 606 9966

Fax: 020 7066 0991

Email: fcc@fca.org.uk

Post: Customer Contact Centre
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

1. Overview

Legislative changes

- 1.1** On 27 March 2014, in addition to the instruments listed in the March Handbook Notice, the FCA Board made changes to the Handbook in three instruments listed in the table below.

CP	Title of instrument	Instrument No.	Changes effective
13/14	Fees (Miscellaneous Amendments) (No 7) Instrument 2014	2014/18	1.4.2014
13/14	Fees (Consumer Credit No 2) Instrument 2014	2014/19	1.4.2014
Ch 3 13/18	Fees (Issuers) (Late Publication of Reports) Instrument 2014	2014/20	1.4.2014

- 1.2** On 1 May 2014, the FCA Board made changes to the Handbook in four instruments which are listed in the table below.

CP	Title of instrument	Instrument No.	Changes effective
13/4	Mortgages (FPC Interest Rate Stress Test Recommendations) Instrument 2014	2014/30	2.5.2014
13/16	Recognised Investment Exchanges Sourcebook (Competition) Instrument 2014	2014/31	2.5.2014 2.6.2014
N/A	Prospectus Rules (Regulatory Technical Standards) Instrument 2014	2014/32	5.5.2014
12/25 13/15	Listing Rules (Listing Regime Enhancements) Instrument 2014	2014/33	16.5.2014

- 1.3** The FCA Board also approved FCA 2014/29 which will be published at a later date. The changes will be summarised in the June Handbook Notice.

Summary of changes

- 1.4** The legislative changes referred to above are listed and briefly described in Chapter 2 of this Notice.

Feedback on responses to consultations

- 1.5** Feedback to consultations are either set out in Chapter 3 of this Notice or published in separate Policy Statements.

Forthcoming FCA board meetings

- 1.6** The table below contains a list of forthcoming FCA board meetings for 2014. These dates are subject to change without prior notice

June	Thursday 5 June
	Thursday 26 June
July	Thursday 24 July
September	Thursday 25 September
November	Wednesday 5 or Thursday 6 November (date TBC)
December	Thursday 11 December

2. Summary of changes

- 2.1** This chapter briefly describes FCA Handbook changes and changes outside the Handbook made by the Board on 27 March and 1 May 2014. Where relevant, it also refers to the development stages of that material, enabling readers to look back at developmental documents if they wish. For information on changes made by the PRA please visit the PRA website.¹

Fees (Miscellaneous Amendments) (No 7) Instrument 2014 (FCA 2014/18)

- 2.2** Following consultation in CP13/14², the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary of definitions
FEES 3, 4, 5, 7
SUP 16

- 2.3** In summary, these changes introduced a new fee-block for investment firms that hold client money or safeguard and administer safe custody assets and made various other updates to our rules and guidance.
- 2.4** This instrument came into force on **1 April 2014**. Feedback to this consultation was published in a separate policy paper.³

Fees (Consumer Credit No 2) Instrument 2014 (FCA 2014/19)

- 2.5** Following consultation in CP13/14⁴, the FCA Board has made changes to the FCA Handbook sections listed below:

FEES 3, 4, 5, 7, TP 10
SUP 16

- 2.6** In summary, these changes put in place the framework for consumer credit periodic fees from 1 April 2014.
- 2.7** This instrument came into force on **1 April 2014**. Feedback to this consultation was published in a separate policy paper.⁵

¹ <http://www.bankofengland.co.uk/pr/Pages/publications/default.aspx>

² CP13/14 *Regulatory fees and levies: policy proposals for 2014/15* (October 2013)

³ CP14/6 *FCA regulated fees and levies: rates proposals 2014/15* (March 2014)

⁴ CP13/14 *Regulatory fees and levies: policy proposals for 2014/15* (October 2013)

⁵ CP14/6 *FCA regulated fees and levies: rates proposals 2014/15* (March 2014)

Fees (Issuers) (Late Publication of Reports) Instrument 2014 (FCA 2014/20)

- 2.8** Following consultation in Chapter 3 of CP13/18⁶, the FCA Board has made changes to the FCA Handbook section listed below:

FEES 3

- 2.9** In summary, these changes implement a £250 fee for late publication of periodic financial reports by listed issuers due under the disclosure and transparency rules.
- 2.10** This instrument came into force on **1 April 2014**. Feedback to this consultation was published in a separate policy paper.⁷

Mortgages (FPC Interest Rate Stress Test Recommendations) Instrument 2014 (FCA 2014/30)

- 2.11** Following consultation in CP14/4⁸, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary of definitions

MCOB

- 2.12** In summary, these changes will expressly require lenders to 'have regard' to any prevailing FPC recommendation when coming to a view as to likely future interest rates when assessing affordability for a mortgage.
- 2.13** This instrument comes into force on **2 May 2014**. Feedback to this consultation is set out in Chapter 3 of this Notice.

Recognised Investment Exchanges Sourcebook (Competition) Instrument 2014 (FCA 2014/31)

- 2.14** Following consultation in CP13/16⁹, the FCA Board has made changes to the FCA Handbook section listed below:

REC

- 2.15** In summary, these changes will:
- make explicit in our guidance that competition considerations are among the relevant circumstances we will take into account when supervising the 'recognition requirements' - the requirements set by HM Treasury that impose continuing obligations for Recognised Investment Exchanges (RIEs), and form the basis for the majority of our powers

⁶ CP14/4 *Quarterly consultation (No 3)* (December 2013)

⁷ CP14/6 *FCA regulated fees and levies: rates proposals 2014/15* (March 2014)

⁸ CP14/4 *Quarterly consultation (No 4)* (March 2014)

⁹ CP13/16 *Competition in the market for services provided by a Recognised Investment Exchange: proposed amendments to REC* (November 2013)

- clarify, via a change to our notification rules, that RIE's proposed regulatory provisions that could affect competition by placing material burdens or restrictions on third party suppliers of exchange services fall within the scope of a power we have to disallow an 'excessive regulatory provision', and
- introduce a requirement similar to that previously contained in legislation for the annual report of a Recognised Overseas Investments Exchange (ROIE) to contain a statement as to whether any material events have occurred affecting competition

2.16 Part 1 of this instrument comes into force on **2 May 2014** and Part 2 of this instrument comes into force on **2 June 2014**. Feedback to this consultation will be set out in a separate policy statement.

Prospectus Rules (Regulatory Technical Standards) Instrument 2014 (FCA 2014/32)

2.17 The FCA Board has made changes to the FCA Handbook section listed below:

PR

2.18 In summary, the amendments will reflect requirements imposed by a new European Delegated Regulation (No. 382/2014) regarding the production of supplementary prospectuses.

2.19 These changes were not consulted on because the changes relate only to the reproduction in the Prospectus Rules (PR) of extracts of directly applicable EU legislation for the convenience of stakeholders. As such, none of these changes represent any alteration in FCA policy.

2.20 This instrument comes into force on **5 May 2014**.

Listing Rules (Listing Regime Enhancements) Instrument 2014 (FCA 2014/33)

2.21 Following consultation in CP12/25¹⁰ and CP13/15¹¹, the FCA Board has made changes to the FCA Handbook sections listed below:

Glossary of definitions

DEPP

LR

2.22 In CP12/25 and CP13/15 we set out proposals to enhance the listing regime, especially in situations where the rights of minority shareholders are at risk of being abused. Our proposals are particularly intended to deal with cases when a controlling shareholder does not maintain an appropriate relationship with a premium listed company.

2.23 The responses to CP12/25 highlighted a number of areas where our proposals required amendment to be more proportionate and effective. We reflected this feedback in the package of proposals that we set out as a whole in CP13/15 (in near final form). The responses to the further consultation in CP13/15 mainly focussed on the practical application of the draft rules. We have amended our proposals to reduce complexity and improve clarity where possible.

¹⁰ CP12/25 *Enhancing the effectiveness of the Listing Regime and feedback on CP12/2* (June 2012)

¹¹ CP13/15 *Feedback on CP12/25: Enhancing the effectiveness of the Listing Regime and further consultation* (November 2013)

2.24 In summary, these changes will:

- require, where a premium listed issuer has a controlling shareholder, that it must enter into an agreement with that shareholder and abide with it at all times. The agreement must contain mandatory independence provisions that are fundamental to the ability of the company to operate as an independent business. Where a controlling shareholder risks damaging the interests of independent shareholders the new rules provide for specific sanctions to allow independent shareholders the means to veto all transactions between the company and controlling shareholder
- provide a dual voting structure by which independent directors of premium listed companies with controlling shareholders must be approved by both the shareholders as a whole and by the independent shareholders, and
- provide enhanced protections for minority shareholders in situations where a premium listed company with a controlling shareholder wishes to delist or to transfer its listing to the standard segment. In takeover offer situations, an equivalent requirement based on acceptances will apply, except that when an offeror has acquired or agreed to acquire more than 80% of voting rights no further approval/acceptances by independent shareholders would be required to cancel their premium listing.

2.25 This instrument comes into force on **16 May 2014**. Feedback to this consultation will be set out in a separate policy statement due to be published on 16 May 2014.

3. Consultation feedback

CP14/4 Quarterly consultation (No 4)

Mortgages (FPC Interest Rate Stress Test Recommendations) Instrument 2014 (FCA 2014/30)

Background

- 3.1** We recently introduced a package of reforms to the UK mortgage market through the Mortgage Market Review (MMR). This strengthens affordability assessments to prevent consumers from taking on unaffordable mortgages and requires firms to consider the impact of likely future interest rate increases on affordability. These reforms came into force on **26 April 2014**.
- 3.2** On 28 November 2013, the Financial Policy Committee (FPC) made a formal recommendation to the Financial Conduct Authority (FCA), to 'require mortgage lenders to have regard to any future FPC recommendation on appropriate interest rate stress tests to use in the assessment of affordability.'
- 3.3** We have amended our mortgage rules to give effect to this recommendation. This means that, in addition to the current requirement to consider market expectations when taking account of likely future interest rate increases, lenders must also have regard to any prevailing FPC recommendation.
- 3.4** We consulted on this proposal in CP14/4.

Feedback

- 3.5** We received five responses from trade bodies, lenders, and the Financial Services Consumer Panel. All respondents were broadly supportive. They did not think there would be any major IT or implementation issues, as long as:
- lenders are given reasonable time to implement changes to their stress test rate following a recommendation (30 days was suggested), and
 - the FPC does not make recommendations that vary in some way (eg by region, loan-to-value ratio or borrower type) as this would require significant changes to lenders' systems
- 3.6** Several practical points were raised that included requests for clarification around the following:
- the meaning of 'have regard' in the amended rule
 - what happens following a recommendation including how it would be communicated to firms, how long it would remain in force, and

- whether pipeline mortgage applications (ie that have already been assessed for affordability) have to be re-assessed following an FPC recommendation

3.7 Some general points were also raised. Respondents wanted more information on how the FPC would form a view of interest rates when making a recommendation so that lenders can plan ahead by following the same benchmark. Some noted that if the interest stress rate was increased then some creditworthy consumers could be denied mortgage finance. One respondent expressed a view that the application of interest stress rate should be countercyclical, leaning against periods of excessive exuberance and pessimism in mortgage lending.

Our response

3.8 After considering the feedback received, we have decided to proceed with the rule as proposed.

3.9 This means that a lender must have regard to both market expectations and any prevailing FPC recommendation when taking account of likely future interest rates in order to assess affordability. Therefore, it will need to be able to justify the basis for the interest stress rate(s) used with reference to both. If it uses alternative factors, it must have a good reason for doing so and will need to be able to explain why it had departed from the two factors set out in the rule.

3.10 As we stated in CP14/4, the FPC will communicate its recommendations following its quarterly meetings by publishing records of its formal policy meetings on the Bank of England's website.¹² We will also publish the prevailing recommendation on our website if and when the FPC makes one.

3.11 The form of FPC recommendations will be guided by threats to financial stability it has identified. At this point, the FPC has not indicated that there is a financial stability reason for it to recommend that the interest rate stress test vary in its application, eg by region or any other factors.

3.12 We have not set out how quickly firms must have regard to a new FPC recommendation, in the same way that we do not set a time limit for firms to take account of changes to market expectations in the existing MMR affordability assessment. Firms must determine appropriate timeframes and document these in their responsible lending policies.

3.13 The FPC keeps recommendations under review. A recommendation will stay in effect until withdrawn or superseded by another recommendation.

3.14 We will not expect firms to re-assess pipeline cases following a recommendation if an affordability assessment has already been undertaken. The exception to this principle is where there is a change to the pipeline case that materially affects affordability (ie an increase in borrowing). This is consistent with our existing approach following a change to market expectations.

3.15 The FPC will consider a range of factors and analysis when forming its view of an appropriate interest rate stress test. These may include for example:

- market expectations for future interest rates including measures of uncertainty around central expectations
- interest stress rates being used by lenders in their affordability assessments, and

¹² www.bankofengland.co.uk/financialstability/Pages/fpc/meetings/default.aspx

- FPC judgements on the likely reaction of mortgage interest rates to a higher level of Bank rate (considering the economic outlook and financial market conditions)

3.16 Given that the FPC's judgement will be based on a range of factors, it is not possible to specify a particular benchmark that it will use.

Cost benefit analysis and compatibility statement

3.17 Before making a recommendation, the FPC is obliged to consider likely benefits and burdens, having regard to proportionality; and where practicable, to prepare an estimate of costs and benefits. When considering a recommendation, the FPC must seek to avoid prejudicing any of the FCA's objectives, including those regarding consumer protection and competition. Given our focus on consumers, we are particularly interested in their access to mortgage finance and regional impacts, and we will have the opportunity to contribute to any proposal for a recommendation through our Chief Executive's seat on the FPC.

3.18 We are not required to do a cost benefit analysis of the proposed rule as it simply seeks to put in place a framework to require lenders to have regard to an FPC recommendation if and when one is made. A recommendation would not be made without the above analysis having been carried out by the FPC.

3.19 The compatibility statement set out in Chapter 5 of CP14/4 remains valid and does not require amendment.

Equality and diversity issues

3.20 The equality and diversity statement in Chapter 5 of CP14/4 remains valid and does not require amendment. We received no comments on this statement and we continue to believe that the changes do not give rise to discrimination.

3.21 We have made the rule changes to MCOB on which we consulted. The changes made by this instrument are listed in Chapter 2 of this Notice.

4. Additional information

Making corrections

- 4.1** The FCA reserves the right to make correctional or clarificatory amendments to the instruments made at the Board meeting without further consultation should this prove necessary or desirable.

Publication of Handbook material

- 4.2** This Notice is published on the FCA website and is available in hardcopy.
- 4.3** The formal legal instruments (which contain details of the changes) can be found on the FCA's website listed by date and reference number¹³ or listed by module.¹⁴ The definitive version of the Handbook at any time is the version contained in the legal instruments.
- 4.4** The changes to the Handbook are incorporated in the consolidated Handbook text on the website as soon as practicable after the legal instruments are published.
- 4.5** The consolidated text of the Handbook can be found on the FCA's website.¹⁵
- 4.6** Copies of the FCA's consultation papers referred to in this Notice are available on the FCA's website or on request in hardcopy form.

Obligation to publish feedback

- 4.7** This Notice, and the feedback to which paragraph 1.3 refers, fulfil for the relevant text made by the Board the obligations in sections 138I(4) and (5) and similar sections of the Financial Services and Markets Act 2000 ('the Act'). These obligations are: to publish an account of representations received in response to consultation and the FCA's response to them; and to publish (where applicable) details of any significant differences between the provisions consulted on and the provisions made by the Board, with a cost-benefit analysis and a statement under s138K(4) of the Act if a proposed altered rule applies to authorised persons which include mutual societies.

¹³ <http://fshandbook.info/FS/InstrumentsByDate.jsp>

¹⁴ <http://fshandbook.info/FS/InstrumentsByModule.jsp>

¹⁵ <http://fshandbook.info>

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